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or national origin. Where previous discriminatory practice or usage tends, on the grounds of race, color, or national origin, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program or activity to which this Regulation applies, the applicant or recipient has an obligation to take reasonable action to remove or overcome the consequences of the prior discriminatory practice or usage, and to accomplish the purposes of the Act.

[30 FR 317, Jan. 9, 1965, as amended at 38 FR 17948, July 5, 1973]

§ 209.5 Assurance required.

(a) *General.* (1) Every application for Federal financial assistance to which this part applies, except an application to which paragraph (b) of this section applies, and every application for Federal financial assistance to provide a facility shall, as a condition to its approval and the extension of any Federal financial assistance pursuant to the application, contain or be accompanied by an assurance that the program will be conducted or the facility operated in compliance with all requirements imposed by or pursuant to this part. In the case of an application for Federal financial assistance to provide real property or structures thereon, the assurance shall obligate the recipient, or, in the case of a subsequent transfer, the transferee, for the period during which the real property or structures are used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. In the case of personal property the assurance shall obligate the recipient for the period during which he retains ownership or possession of the property. In all other cases the assurance shall obligate the recipient for the period during which Federal financial assistance is extended pursuant to the application. The head of the bureau or office administering the Federal financial assistance shall specify the form of the foregoing assurances and the extent to which like assurances will be required of subgrantees, contractors and subcontractors, transferees, successors in interest, and other participants. Any such assurance shall

include provisions which give the United States a right to seek its judicial enforcement.

(2) In the case of real property, structures or improvements thereon, or interests therein, which was acquired with Federal financial assistance, or in the case where Federal financial assistance is provided in the form of a transfer of real property or interest therein from the Federal Government, the instrument effecting or recording the transfer shall contain a covenant running with the land assuring non-discrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. Where no transfer of property is involved, but property is improved with Federal financial assistance, the recipient shall agree to include such a covenant in any subsequent transfer of such property. Where the property is obtained from the Federal Government, such covenant may also include a condition coupled with a right to be reserved by the Agency to revert title to the property in the event of a breach of the covenant where, in the discretion of the responsible Agency official, such a condition and right of reverter is appropriate to the statute under which the real property is obtained and to the nature of the grant and the grantee. In such event if a transferee of real property proposed to mortgage or otherwise encumber the real property as security for financing construction of new or improvement of existing facilities on such property for the purposes for which the property was transferred, the Administrator may agree, upon request of the transferee and if necessary to accomplish such financing, and upon such conditions as he deems appropriate, to forbear the exercise of such right to revert title for so long as the lien of such mortgage or other encumbrance remains effective.

(3) Transfers of surplus property are subject to regulations issued by the Administrator of General Services (41 CFR 101–6.2).

(b) *Assurances from institutions.* (1) In the case of any application for Federal financial assistance to an institution of

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higher education (including assistance for construction, for research, for a special training project, for student assistance, or for any other purpose), the assurance required by this section shall extend to admission practices and to all other practices relating to the treatment of students.

(2) The assurance required with respect to an institution of higher education or any other institution, insofar as the assurance relates to the institution's practices with respect to admission or other treatment of individuals as students or clients of the institution or to the opportunity to participate in the provision of services or other benefits to such individuals, shall be applicable to the entire institution.

[30 FR 317, Jan. 9, 1965, as amended at 38 FR 17948, July 5, 1973; 68 FR 51361, Aug. 26, 2003]

§ 209.6 Compliance information.

(a) *Cooperation and assistance.* The Administrator shall to the fullest extent practicable seek the cooperation of recipients in obtaining compliance with this part and shall provide assistance and guidance to recipients to help them comply voluntarily with this part.

(b) *Compliance reports.* Each recipient shall keep such records and submit to the Administrator timely, complete and accurate compliance reports at such times, and in such form and containing such information, as the Administrator may determine to be necessary to enable him to ascertain whether the recipient has complied or is complying with this part. In the case in which a primary recipient extends Federal financial assistance to any other recipient, such other recipient shall also submit such compliance reports to the primary recipient as may be necessary to enable the primary recipient to carry out its obligations under this part.

(c) *Access to sources of information.* Each recipient shall permit access by the Administrator during normal business hours to such of its books, records, accounts, and other sources of information, and its facilities as may be pertinent to ascertain compliance with this part. Where any information required of a recipient is in the exclusive possession of any other agency, institution or

person and this agency, institution or person shall fail or refuse to furnish this information, the recipient shall so certify in its report and shall set forth what efforts it has made to obtain the information.

(d) *Information to beneficiaries and participants.* Each recipient shall make available to participants, beneficiaries, and other interested persons such information regarding the provisions of this part and its applicability to the program for which the recipient receives Federal financial assistance, and make such information available to them in such manner, as the Administrator finds necessary to apprise such persons of the protections against discrimination assured them by the Act and this part.

§ 209.7 Conduct of investigations.

(a) *Periodic compliance reviews.* The Administrator shall from time to time review the practices of recipients to determine whether they are complying with this part.

(b) *Complaints.* Any person who believes himself or any specific class of individuals to be subjected to discrimination prohibited by this part may by himself or by a representative file with the Administrator a written complaint. A complaint must be filed not later than 90 days from the date of the alleged discrimination, unless the time for filing is extended by the Administrator.

(c) *Investigations.* The Administrator will make a prompt investigation whenever a compliance review, report, complaint, or any other information indicates a possible failure to comply with this part. The investigation should include, where appropriate, a review of the pertinent practices and policies of the recipient, the circumstances under which the possible noncompliance with this part occurred, and other factors relevant to a determination as to whether the recipient has failed to comply with this part.

(d) *Resolution of matters.* (1) If an investigation pursuant to paragraph (c) of this section indicates a failure to comply with this part, the Administrator will so inform the recipient and the matter will be resolved by informal means whenever possible. If it has been